

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

OLGA M. TOLEDO,

Plaintiff,

v.

ISAAC CALDWELL, JR.,

and

VIP TRANSPORT EAST, INC.,

Defendants.

Civil Action No: _____
Fairfax County Circuit Court No.
Case No. 2019CL06573

NOTICE OF REMOVAL

Isaac Caldwell, Jr. ("Caldwell") and VIP Transport East, Inc. ("VIP") (collectively, "Defendants"), by counsel, pursuant to 28 U.S.C. §§ 1441 and 1446, hereby file this Notice of Removal on the following grounds:

1. Plaintiff commenced this civil action by filing a Complaint in the Circuit Court of the County of Fairfax, Virginia on or about May 16, 2019. This is a personal injury action in which the plaintiff claims to have been injured as a result of the Defendants' negligence.

2. A copy of the Complaint was served on VIP via the Secretary of the Commonwealth. The certificate of compliance was filed with Fairfax Circuit Court on July 1, 2019. A copy of the Complaint was also served on Caldwell via the Department of Motor Vehicles on June 12, 2019. The Summons and Complaint for VIP are attached hereto as **Exhibit A**.

3. The Complaint, along with a consent order to allow a late Answer on behalf of Caldwell and Answer for VIP are the only pleadings that have been filed to date by the parties. A

copy of Caldwell's Answer and Proposed Order are collectively attached as **Exhibit B**. A Copy of VIP's Answer is attached as **Exhibit C**.

4. There have been no further proceedings in this action.

5. The amount in controversy in this action, exclusive of interest and costs, exceeds \$75,000.00.

6. Upon information and belief, Plaintiff is a citizen of Virginia.

7. Upon information and belief, Caldwell is, and was at the time this action was filed, a citizen of Maryland. Caldwell was not, and is not now, a citizen of the Commonwealth of Virginia.

8. VIP is, and was at the time this action was filed, a California corporation with its principal place of business in Corona, California. VIP was not, and is not now, a citizen of the Commonwealth of Virginia.

9. This action involves a controversy wholly between citizens of different states. There is complete diversity of citizenship.

10. This Court has original jurisdiction in this matter pursuant to 28 U.S.C. § 1332(a), and the action may therefore be removed to this Court pursuant to 28 U.S.C. § 1441(a).

11. Defendants desire to remove this action to this Court.

12. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days after receipt by the Defendant, VIP, of plaintiff's Complaint or Summons through service.

13. Pursuant to 28 U.S.C. § 1441(a), venue of this removal action is proper in the Eastern District of Virginia, Alexandria Division, because it is in the district and division embracing the place where the state court action is pending.

14. Promptly after the filing of this Notice of Removal, Defendants will give written notice of the removal to Plaintiff, the adverse party, and will file a copy of this Notice of Removal with the Circuit Court for Fairfax County, as required by 28 U.S.C. § 1446(d).

15. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Defendant in the state court action have been attached hereto.

16. Defendants demand a trial by jury, and a Notice of Demand of Trial by Jury is attached hereto as **Exhibit D**.

WHEREFORE, Isaac Caldwell, Jr. and VIP Transport East, Inc., by counsel, respectfully request that this action be removed from the Circuit Court of the County of Fairfax, Virginia, to this Court.

ISAAC CALDWELL, JR. AND
VIP TRANSPORT EAST, INC.

By: /s/ D. Cameron Beck, Jr.
Counsel

D. Cameron Beck, Jr. Esquire (VSB# 39195)
Brittany B. Falabella, Esquire (VSB # 80131)
McCandlish Holton
P.O. Box 796
Richmond, VA 23218
Tel. #: (804) 775-3100
Fax # : (804) 775-3800
cbeck@lawmh.com
bfalabella@lawmh.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Notice of Removal was sent via electronic mail and U.S. mail this 24th day of July 2019 to:

Joseph T. Trapeni, Jr., Esq. (VSB No. 24348)
3930 Walnut Street, Suite 250
Fairfax, Virginia 22030
703-273-1133 Telephone
703-273-0178 Facsimile
josephtrapeni@gmail.com
Counsel for Plaintiff

And I hereby certify that on this 24th day of July, 2019, I caused a true copy of the foregoing to be sent via U.S. mail to:

Hon. John T. Frey, Clerk
Fairfax County Circuit Court
4110 Chain Bridge Road
Fairfax, VA 22030

/s/ D. Cameron Beck, Jr.